UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RONALD MELTON, et al.,	:	**CASE NO. C-1-01-528**
	:	**(J. Spiegel)**
Plaintiffs	:	
	:	
vs.	:	
	:	
BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO, et al.,	:	
	:	
Defendants	:	

RESPONSE OF DEFENDANT, CARL L. PARROTT, JR., M.D. TO PLAINTIFFS' MOTION FOR VOLUNTARY DISMISSAL, MOTION FOR CONTINUANCE OF TRIAL DATE, MOTION FOR EXTENSION OF TIME TO FILE PRETRIAL STATEMENT, AND MOTION FOR EXTENSION OF TIME TO FILE MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTIONS OF SUMMARY JUDGMENT

I. PRELIMINARY STATEMENT

This Defendant filed a Motion for Summary Judgment based on qualified immunity on January 28, 2004 (Doc. 81). Plaintiffs have yet to respond to that Motion. The other Defendants have also filed Motions for Summary Judgment.

Now, almost four months after the Motion for Summary Judgment was filed, Plaintiffs move to continue the trial date, for an extension of time to file a memorandum in opposition to Defendants' Motions for Summary Judgment and for voluntary dismissal without prejudice. It is the position of this Defendant that Plaintiffs' Motion to Voluntarily Dismiss Without Prejudice should be denied. However, since Dr. Parrott has filed a Motion for Summary Judgment based upon qualified immunity which is an immunity from suit, Dr. Parrott does not object to a continuance of the trial date or the pretrial date. It is the position of Dr. Parrott that Plaintiffs should respond to the Motion for Summary Judgment immediately so that Dr. Parrott can file his reply and make the motion ripe for a decision by the Court.

II. ARGUMENT

This Defendant incorporates herein by reference the arguments of the Hamilton County Defendants contained in subsection (A), pages 2-4 of their memorandum in opposition to Plaintiffs' Motion to Dismiss Without Prejudice. (Doc. 107). This Defendant has no objection to Plaintiffs dismissing their federal claims with prejudice.

As set forth above, this Defendant has filed a Motion for Summary Judgment based upon qualified immunity. Since that is an immunity from suit, this Defendant does not have an objection to the continuance of the trial date or the pretrial date. However, it is the position of Dr. Parrott that the Motion for Summary Judgment should be decided at the earliest possible date.

III. CONCLUSION

Based on the foregoing, Defendant, Carl L. Parrott, Jr., M.D., respectfully requests that this Court deny Plaintiffs' Motion for Voluntary Dismissal Without Prejudice.

Respectfully submitted,

s/Lawrence E. Barbiere

Lawrence E. Barbiere (#0027106)
Attorney for Defendant, Carl L. Parrott, Jr., M.D.
SCHROEDER, MAUNDRELL, BARBIERE & POWERS
11935 Mason Road, Suite 110
Cincinnati, OH 45249
(513) 583-4200
(513) 583-4203 [fax]

OF COUNSEL:

Michael E. Maundrell (#0027110)
SCHROEDER, MAUNDRELL, BARBIERE & POWERS
11935 Mason Road, Suite 110
Cincinnati, OH 45249
(513) 583-4200
(513) 583-4203 [fax]

CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Attorneys for Plaintiffs:

David W. Kapor, Esq.
36 East Seventh Street, Suite 1520
Cincinnati, OH 45202

Michael B. Ganson, Esq.
36 East Seventh Street, Suite 1540
Cincinnati, OH 45202

Attorney for Defendant, Hamilton County, Ohio:

Jamie M. Ramsey, Esq.
Keating, Muething & Klekamp
1400 Provident Tower
One East Fourth Street
Cincinnati, OH 45202

Attorney for Defendant, Jonathan Tobias:

Glenn V. Whitaker, Esq.
Victor A. Walton, Jr., Esq.
Vorys, Sater, Seymour and Pease LLP
Suite 2000, Atrium Two
221 East Fourth Street
Cincinnati, OH 45202

Attorney for Defendant, Thomas Condon:

Jennifer M. Kinsley, Esq.
Sirkin, Pinales, Mezibov & Schwartz
105 W. Fourth Street - Suite 920
Cincinnati, OH 45202

s/Lawrence E. Barbiere
Lawrence E. Barbiere